

**ENVIRONMENT, CULTURE AND COMMUNITIES OVERVIEW AND SCRUTINY PANEL
16 MARCH 2009**

**BRIEFING ON S106 ARRANGEMENTS
(Director of Environment, Culture and Communities)**

1 PURPOSE OF DECISION

- 1.1 This report is to provide background and information on Section 106 legal agreements, and an indication of the process followed by the Council.

2 SUGGESTED ACTION

- 2.1 **That the contents of this report be noted.**

3 SUPPORTING INFORMATION

- 3.1 Section 106 of the Town & Country Planning Act 1990 (as amended) allows a local planning authority enter into a legally binding agreement or planning obligation with a land developer with regard to a development proposal. It is a planning tool used to regulate the impact of development and can act as the main instrument for requiring contributions from developers for the benefit of local residents.
- 3.2 It is especially useful for securing the phased provision of development-related infrastructure, and is now commonly used to bring planning applications into line with the sustainability objectives of the Council. S106 agreements often require developers to minimise the impact on the local community and to carry out tasks that will provide community benefits.

Core Strategy

- 3.3 Following extensive consultation and careful independent examination, the Borough Council's adopted Core Strategy has many planning policies that are to be implemented at least in part by Section 106. Core Strategy Policy CS6 aims to limit development impact by in-kind provision, or by contributions towards provision on a different site, of infrastructure and facilities that are reasonably related.

Limiting the Impact of Development

- 3.4 Following publicity and consultation, the Council also adopted (July 2007) a document called "Limiting the Impact of Development" (LID) which provides details on how Core Strategy Policy CS6 will be implemented to deliver sustainable development and to support planned growth. It sets out fully the Council's expectations for infrastructure within major and large scale developments and how impact mitigation payments will be sought from small site developments. Small site developments are expected to contribute as cumulatively they can have a big impact.

Planning Briefs

- 3.5 From time to time, the Council will, after consultation, set out in a local development plan, planning brief or master plan its expectations for infrastructure and the provision of facilities to serve the proposals. Section 106 will be used to secure the delivery of planned infrastructure and other contributions.
- 3.6 The LID guidance noted above provides the evidence and reasoned justification for seeking contributions towards providing, expanding or improving development, if appropriate, under the following headings:
- Transport
(integrated transport measures, highway works and public transport facilities/services)
 - Travel Plans
(preparation, adoption, implementation and monitoring)
 - Open space and outdoor recreational facilities
(may include nature/landscape conservation and works to rights of way)
 - Built sports facilities
 - Education facilities
(Primary and Nursery, Secondary and Special education facilities)
 - Library facilities
 - Community centres
 - Youth facilities and children's centres
 - Health and social services
 - Thames Basin Heaths Special Protection Area
(implementing the Special Protection Area Avoidance and Mitigation Strategy)
 - Natural environment
 - Climate change
(may include sustainable construction, air pollution, flood risk management)
 - Economic development
(may include employee training and services relating to labour supply impact)
 - Public realm and environmental enhancements
(may include security measures and public art)
 - Heritage
(may include archaeology and the historic environment)
 - Waste management and recycling
 - Premises for small businesses
- 3.7 For some of the above, standard contributions and formulae will be a starting point, but for others, contributions will reflect the circumstances of the development

Achieving and spending contributions

- 3.8 Collection of S106 contributions is the responsibility of the Spatial Policy Implementation team (Team Manager; Nigel Moore) according to the requirements of the legal agreement entered into. At present the Implementation team notifies the Chief Officer Financial Services, the Head of Finance and Chief Officer of the appropriate division to which the contribution applies when the funds are paid in full.

- 3.9 The funds are maintained by Corporate Finance in an interest accruing account and managed so that:
- Financial information is recorded in a clear, transparent manner and is readily available
 - If funds remain unspent the Chief Officer of the appropriate division will receive regular prompts that the funds are available for allocation
 - There is a clear audit trail showing sums paid, any proposed spending, and sums spent.
- 3.10 The Chief Officer of the spending division considers how the funds are to be spent and at present there is no report back procedure which would indicate whether any consultations have taken place. The Implementation (Spatial Policy) team has drafted a procedure note suggesting an extra stage of referral to Planning and Transport from spending division Chief Officers which would require notice of consultations with the Local Strategic Partnership, Registered Social Landlords, community groups and the like, but this is not presently in place.
- 3.11 Having made the decision on intended recipients of funds, the appropriate Chief Officer seeks Council (or more generally Executive Member) approval for the release of funds. At present there is no automatic referral to any other group or political level required in the process.

Background Papers

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Contact for further information

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